

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
UTILITIES COMPANY FOR A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY FOR)	2022-00066
THE CONSTRUCTION OF TRANSMISSION)	
FACILITIES IN HARDIN COUNTY, KENTUCKY)	

ORDER

On April 10, 2022, Scott Hagan sent an email to the Commission, on behalf of Delberta Hagan, requesting to intervene in this proceeding. As a basis for her motion, Delberta Hagan stated that “our property’ is zoned C-2 Commercial.”¹ She alleged that the property had already been negatively impacted by the sale of 64 acres for the Glendale Megasite and the expansion of SR 222 Glendale to Interstate 65.² Ms. Hagan requested that Kentucky Utilities Company’s (KU) proposed 345kV transmission line be moved to land not zoned commercial. The Commission will treat the email as a motion to intervene.

KU filed a response on April 12, 2022. In the response, KU noted that Ms. Hagan’s request was not timely filed.³ KU objected to Ms. Hagan’s request because Ms. Hagan

¹ Email dated Apr. 10, 2022 sent by Scott Hagan on behalf of Delberta Hagan (filed Apr. 11, 2022). The email was sent on Sunday, April 10, 2022. According to Commission Regulation 807 KAR 5:001, Section 4(7)(b), it is deemed filed on Monday, April 11, 2022.

² Email dated Apr. 10, 2022 sent by Scott Hagan on behalf of Delberta Hagan (filed Apr. 11, 2022).

³ KU’s Response to Petitions to Intervene from Unaffected Landowners (filed April 12, 2022) at 2, referencing the Order dated April 6, 2022 setting forth the procedural deadline of April 8, 2022.

had provided no information that she was an affected landowner.⁴ For both reasons, KU requested that the Commission deny the request.⁵

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.⁶

The statutory standard for permissive intervention, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”⁷

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11) requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In cases involving an application for a Certificate of Public Convenience and Necessity (CPCN) to construct an electric transmission line, the Commission also

⁴ KU’s Response to Petitions to Intervene from Unaffected Landowners (filed April 12, 2022) at 2–3.

⁵ KU’s Response to Petitions to Intervene from Unaffected Landowners (filed April 12, 2022) at 4.

⁶ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

⁷ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

considers KRS 278.020(9), which includes a person over whose property a proposed transmission line will cross as an “interested person” who may request intervention.

DISCUSSION AND FINDINGS

Based on a review of the motion and response, and being otherwise sufficient advised, the Commission finds that Delberta Hagan failed to articulate that she has a special interest in this proceeding that is not adequately represented. The Commission further finds that Ms. Hagan did not indicate that she is likely to present issues or to develop facts that will assist the Commission in resolving this matter without unduly complicating the proceeding. The Commission also finds that Ms. Hagan has not demonstrated that she is an “interested person” pursuant to KRS 278.020(9). For the reasons discussed below, the Commission finds that the request is denied.

Ms. Hagan did not provide a property address or explain her ownership interest in any property. As a result, she did not establish she was an “interested person”. She did not explain how the property she referenced would be impacted by the proposed transmission line, and thus did not identify a special interest in this proceeding not otherwise adequately represented. The email also did not indicate that Ms. Hagan will develop facts and present issues to assist the Commission in deciding the matter. The email implied that the proposed project will have a negative impact on commercial value of the property but provided no evidence to support this allegation. Because the email did not identify any specific negative impacts that the proposed project will have on the proposed location, the Commission is not convinced Ms. Hagan will develop facts or present issues to assist in the final decision in this matter.

Additionally, in accordance with the April 6, 2022 procedural schedule, any person requesting to intervene after April 8, 2022 had to show good cause for being untimely. The email, filed on April 11, 2022, was not timely filed⁸ and did not provide good cause why the request was untimely. Therefore, the Commission finds that the motion is denied as untimely.

Ms. Hagan will have an opportunity to participate in this proceeding even though she is not granted intervenor status. Ms. Hagan can review all public documents filed in this case and monitor the proceedings via the Commission's website: <https://psc.ky.gov/Case/ViewCaseFilings/2022-00066>. In addition, Ms. Hagan may file comments as frequently as she chooses, and those comments will be entered into the record of this case.

IT IS THEREFORE ORDERED that the motion to intervene filed by Ms. Hagan is denied.

⁸ Order (Ky PSC April 6, 2022). Procedural schedule setting the deadline to file for Intervention on April 6, 2022.

PUBLIC SERVICE COMMISSION



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ATTEST:



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